

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Benjamin Shelton	Team: Squad #11	CCRB Case #: 201908894	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 10/09/2019 6:40 PM, Wednesday, 10/09/2019 6:50 PM	Location of Incident: the southeast corner of Wyatt Street and Devoe Avenue and en route to the 48th Precinct stationhouse	18 Mo. SOL 11/24/2021	Precinct: 48		
Date/Time CV Reported Thu, 10/10/2019 2:33 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 10/10/2019 2:33 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			048 PCT
2. POF Sandra Martinez	04343	955139	048 PCT
3. SGT Ayotunde Adeniyi	01246	934370	048 PCT
4. LT Anderson Ortiz	00000	949424	048 PCT
5. POM Miguel Donovan	27770	950341	048 PCT
6. POM Saquoi Harris	02350	961806	048 PCT
7. POM Jakub Zadlo	06401	962184	048 PCT
8. Officers			048 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Ryan Boylan	00197	946801	INT CIS
2. SGT Andre Fields	00193	953858	048 PCT
3. POM David Ramirez	25053	962711	048 PCT
4. POM Jordan Moses	24160	963174	048 PCT
5. POM Steven Perez	23485	962681	048 PCT
6. POF Anais Leal	05561	956830	048 PCT
7. POM Andrew Cummings	02646	956559	048 PCT
8. POM Anthony Alfano	17128	957625	048 PCT

Officer(s)	Allegation	Investigator Recommendation
A . SGT Ayotunde Adeniyi	Abuse: At Wyatt Street and Devoe Avenue in the Bronx, Sergeant Ayotunde Adeniyi stopped § 87(2)(b)	
B . SGT Ayotunde Adeniyi	Abuse: At Wyatt Street and Devoe Avenue in the Bronx, Sergeant Ayotunde Adeniyi frisked § 87(2)(b)	
C . POM Miguel Donovan	Abuse: At Wyatt Street and Devoe Avenue in the Bronx, Police Officer Miguel Donovan searched § 87(2)(b)	
D . LT Anderson Ortiz	Force: At Wyatt Street and Devoe Avenue in the Bronx, Lieutenant Anderson Ortiz used physical force against § 87(2)(b)	
E . POM Miguel Donovan	Force: At Wyatt Street and Devoe Avenue in the Bronx, Police Officer Miguel Donovan used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
F . POF Sandra Martinez	Force: At Wyatt Street and Devoe Avenue in the Bronx, Police Officer Sandra Martinez used physical force against § 87(2)(b)	
G . POM Saquoi Harris	Force: At Wyatt Street and Devoe Avenue in the Bronx, Police Officer Saquoi Harris used physical force against § 87(2)(b)	
H . Officers	Force: At Wyatt Street and Devoe Avenue in the Bronx, officers used physical force against § 87(2)(b)	
I . Officers	Abuse: At Wyatt Street and Devoe Avenue in the Bronx, officers refused to provide their shield numbers to § 87(2)(b)	
J . An officer	Discourtesy: At Wyatt Street and Devoe Avenue in the Bronx, an officer spoke discourteously to § 87(2)(b)	
K . POM Jakub Zadlo	Discourtesy: En route to the 48th Precinct stationhouse, Police Officer Jakub Zadlo spoke discourteously to § 87(2)(b)	

Case Summary

On October 10, 2019, § 87(2)(b) filed this complaint with the CCRB via the agency's website.

On October 9, 2019, at approximately 6:40 p.m., § 87(2)(b) was at Wyatt Street and Devoe Avenue in the Bronx when Sgt. Ayotunde Adeniyi, PO Saquai Harris, PO Sandra Martinez, and PO Miguel Donovan of the 48th Precinct stopped him by grabbing his arms and frisked his person (**Allegations A and B: Abuse of Authority**, § 87(2)(g) § 87(2)(b) alleged that PO Donovan allegedly reached into his pockets (**Allegation C: Abuse of Authority**, § 87(2)(g) Lt. Anderson Ortiz of the 48th Precinct arrived on scene and allegedly punched § 87(2)(b) in the face (**Allegation D: Force**, § 87(2)(g) Officers then took § 87(2)(b) down to the ground where he was handcuffed (**Allegations E to G: Force**, § 87(2)(g) During the handcuffing process, § 87(2)(b) alleged that unidentified officers stepped on his left arm and struck him in his groin (**Allegation H: Force**, § 87(2)(g) § 87(2)(b) asked officers for badge numbers, none of whom provided them and to which one officer replied, "Shut the fuck up" (**Allegation I: Abuse of Authority**, § 87(2)(g) (**Allegation J: Discourtesy**, § 87(2)(g) While § 87(2)(b) was being transported to the 48th Precinct stationhouse for processing, PO Jakub Zadlo told him, "Have a little fucking respect" (**Allegation L: Discourtesy**, § 87(2)(g)

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Video evidence for this incident was obtained from a surveillance camera at § 87(2)(b) located at 350 Devoe Avenue, via the store's manager's cellphone (BR 02). Additional video evidence was obtained from the body-worn cameras (BWC) assigned to Lt. Ortiz, PO Steven Perez, PO Anais Leal, PO Anthony Alfano, Sgt. Adeniyi, PO David Ramirez, PO Jordan Moses, Sgt. Andre Fields, PO Martinez, PO Donovan, PO Harris, PO Andrew Cummings, PO Zadlo, and PO Ibn Barthelmy of the 48th Precinct via the NYPD Legal Bureau (BR 03-20). The investigation also received surveillance footage from 1110 Wyatt Street via the building's superintendent (BR 21-23), surveillance footage from the 48th Precinct stationhouse via the Strategic Technology Division (BR 24), surveillance footage from West Farms Post Office via the United States Postal Service Legal Department (BR 25-27), and surveillance footage from the Pay-o-Matic located at Wyatt Street and Devoe Avenue via the company's Compliance Department (BR 28), which was all deemed impertinent to the investigation.

Findings and Recommendations

Allegation A – Abuse of Authority: At Wyatt Street and Devoe Avenue in the Bronx, Sergeant Ayotunde Adeniyi stopped § 87(2)(b)

Allegation B – Abuse of Authority: At Wyatt Street and Devoe Avenue in the Bronx, Sergeant Ayotunde Adeniyi frisked § 87(2)(b)

Footage from § 87(2)(b) surveillance camera captures these allegations (BR 02). There is no on-screen timestamp, and the investigation notes that the video quality is compromised by the actual footage being captured via two cellphone recordings. At 0:00, § 87(2)(b) exits the grocery and walks away from the camera to a corner. He steps off the curb and appears to be waiting to cross Devoe Avenue with his hands in his pockets. He wears gray sweatpants and a white short-sleeved t-shirt over a black long-sleeved t-shirt. At 0:20, an unmarked black sedan in which Sgt. Adeniyi, PO Harris, PO Martinez, and PO Donovan pulls up to the same corner, followed by a marked vehicle which passes it, and stops. § 87(2)(b) continues to stand with his hands in his pockets, looking away from officers as if waiting to cross the street. At 0:33, all four

his department cellphone, he heard the Anti-Crime team request an additional unit to the location. Approximately four minutes later, Sgt. Boylan arrived but he did not recall observing § 87(2)(b).

§ 87(2)(e)
Sgt. Boylan stated he only provided information to other officers and he was not involved in any decision making or reports or any steps taken regarding § 87(2)(b) and the stop. Sgt. Boylan was presented the Stop, Question and Frisk Report regarding this incident, and could not confirm if § 87(2)(b) description, § 87(2)(e)

§ 87(2)(e)
Sgt. Adeniyi was interviewed on December 9, 2020 (BR 30). He was the 48th Precinct Anti-Crime team supervisor at the time of the incident on patrol with PO Donovan, PO Martinez, and PO Harris. While on patrol, the team received intel directly from Sgt. Ryan Boylan, the 48th Precinct's Field Intelligence Officer (FIO), that there was a male armed with a firearm in the vicinity of Devoe Avenue and Wyatt Street with a suspect description that Sgt. Adeniyi did not recall other than a male Hispanic. He did not recall any information regarding whether he was black Hispanic or white Hispanic, a specific location at the intersection, direction of movement, specific behaviors of the suspect, a firearm description, or the suspect's clothing description. He did not know when, or how Sgt. Boylan learned of this information. Sgt. Adeniyi did not recall how he himself received that information, but the FIO primarily shares information via an email blast to certain officers and sometimes via phone call or text, typically with the whole Anti-Crime team. Sgt. Adeniyi and his team went to the intersection of Wyatt Street and Devoe Avenue immediately after receiving the information to canvass for the suspect. Sgt. Adeniyi observed § 87(2)(b) at the intersection and believed he matched the gender and race of the suspect reported by Sgt. Boylan. He did not recall what § 87(2)(b) was doing when he was initially observed or whether his clothing description matched that of the suspect. Sgt. Adeniyi did not recall any information that would have led him to believe that § 87(2)(b) had a firearm on his person. He did not recall what § 87(2)(b) was doing with his hands. Sgt. Adeniyi exited the vehicle with other officers under the belief § 87(2)(b) had a firearm, and to stop him based on Sgt. Boylan's information. Officers announced they were police and grabbed § 87(2)(b) in a manner he did not recall. While he did not recall any frisks of § 87(2)(b) he noted it would have made sense that at least one officer would have frisked him due to their belief that § 87(2)(b) could have been in possession of a firearm. He did not recall any objects recovered on § 87(2)(b) person during the incident.

PO Harris provided consistent testimony to Sgt. Adeniyi with the following additions and exceptions (BR 32). Sgt. Adeniyi directed the Anti-Crime team to the incident location after he spoke to Sgt. Boylan over the phone. Once on scene, Sgt. Adeniyi informed PO Harris Sgt. Boylan informed him § 87(2)(e). PO Harris did not recall the physical description of the suspect or his clothing description as provided by Sgt. Adeniyi but referred during his interview to the information he recorded in his memo book as accurate. PO Harris parked at the corner. Officers waited in the vehicle for five minutes or less for further instruction before observing § 87(2)(b). PO Harris did not recall who made the identification or how his attention was directed to § 87(2)(b). He did not know how § 87(2)(b) was identified or on what basis/description match. PO Harris observed § 87(2)(b) walking out of a store with his hands in his pockets. He did not independently recall what § 87(2)(b) was wearing or anything about his physical description, and again referred to his memo book for that information. He did not recall anything else he was doing except walking with his hands in his pockets. He did not recall any bulges or specific indications on § 87(2)(b) person that he was carrying a firearm. He only recalled that he was informed by Sgt. Adeniyi that § 87(2)(b) matched the description for someone carrying a firearm. Before leaving the vehicle together, Sgt. Adeniyi did not provide instruction or guidance to PO Harris. PO Harris left the vehicle to approach § 87(2)(b). PO Harris did not know who, but stated other officers already engaged and stopped § 87(2)(b) before he exited the vehicle but could not be more specific about how or any actions these officers took when interacting with § 87(2)(b). PO Harris did

not recall any frisks of § 87(2)(b)

In his memo book, PO Harris wrote that he, “received information about a male Hispanic wearing all black [that] has an illegal firearm” (BR 33). PO Harris stated he prepared this entry on the incident date before he finished his tour. In the Stop, Question and Frisk Report, # § 87(2)(b) prepared by PO Harris, it was written that § 87(2)(b) was suspected of carrying a firearm due to match to specific suspect description based on information from the FIO, that of male Hispanic wearing white shirt and gray sweatpants carrying an illegal firearm at the corner of Devoe and Wyatt (BR 34). It also indicated that § 87(2)(b) was frisked because PO Harris observed an object on § 87(2)(b) person that he believed to be a firearm, but no weapon was found on his person. On October 10, 2019, Sgt. Carmen Gomez of the 48th Precinct reviewed the report, rejected it, and left a note for PO Harris, “male Hispanic is not enough. Fitting description is not enough, and a description was not provided. How was it known that male had a weapon? What was observed that he was suspected to have a weapon?...What was the information provided by the FIO?” On October 16, 2019, PO Harris submitted the report and Lt. Ortiz reviewed it, rejected it, and left a note for PO Harris, “needs corrections.” On October 18, 2019, Sgt. Adeniyi submitted the report and Lt. Pawel Lachowski of the 48th Precinct approved it. PO Harris was presented the Stop, Question and Frisk Report and confirmed he prepared it but did not independently recall doing so. He freely reviewed it and identified a typo in the report: in his memo book, he wrote black clothing; in the report he wrote the clothing that § 87(2)(b) was wearing on the incident date. PO Harris stated he might have gotten confused about the information and wrote the exact description of § 87(2)(b) clothing in the Stop, Question and Frisk Report, and that he probably meant to write “gray” in his memo book instead of “black.” When asked directly which one was the typo, PO Harris stated his memo book. He did not know why he wrote “black,” but explained that there was a probably just a lot going on and “these things happen.” He stated the clothing description in the Stop, Question and Frisk Report was the information he received about the suspect but had no recollection of receiving that information. He confirmed the memo book entry was prepared first. When directed to the comments/endorsement information, he could not explain the dates for when they were made. He did not recall when he first submitted the Stop, Question and Frisk Report. Regarding Sgt. Gomez’s comment, he could not elaborate further other than he was notified there was missing information after his first submission. He “didn’t even know why she would write that.” He did not recall what the initial information he provided was. PO Harris did not know when he added additional information. PO Harris could not explain why it was indicated that an object suspected of being a weapon was observed but assumed it was because § 87(2)(b) “probably had a firearm.” When he was directed to the information indicating no weapon was found, PO Harris stated it could have been an object in the shape of a firearm but did not recall what the object was.

Lt. Ortiz, who was Sgt. Adeniyi’s direct supervisor at the time of the incident, provided consistent testimony to Sgt. Adeniyi with the following additions and exceptions (BR 35). He did not recall the specific information disseminated by Sgt. Boylan and described his own presence at the incident location as a coincidence. Lt. Ortiz and his operator, PO Steven Perez pulled up alongside an idling vehicle on Wyatt Street next to Devoe Avenue and as they conducted an unrelated investigation, he received a call over the radio from a member of the Anti-Crime reporting a stop and requesting additional units. Lt. Ortiz ordered PO Perez to stay with the vehicle stop as he ran to the corner to assist. Lt. Ortiz immediately observed all four Anti-Crime MOS in a physical struggle with § 87(2)(b) next to a parked vehicle. He did not know what preceded his arrival on scene and assisted in arresting § 87(2)(b). Lt. Ortiz was presented the Stop, Question, and Frisk report prepared by PO Harris and did not recall those details in the narrative and did not know why it was indicated an object was observed on § 87(2)(b) person. Based on the detailed supervisory corrections, he believed a clothing description might have been added after only an initial description of a male Hispanic. Lt. Ortiz did not recall any frisks of § 87(2)(b)

PO Martinez and PO Donovan both provided consistent testimony to Sgt. Adeniyi with the following additions and exceptions (BR 36-37). PO Donovan did not recall the clothing description provided by Sgt. Boylan, only that the suspect was described as a male Hispanic. PO Martinez stated Sgt. Boylan provided a clothing description of white shirt and gray sweatpants. Upon arriving on scene, all officers in the Anti-Crime observed § 87(2)(b) at that corner and noticed that he matched the pedigree and clothing description of the suspect. § 87(2)(b) hands were concealed within the waistband or pockets of his pants or in his hoodie pockets. All Anti-Crime officers decided together to exit their vehicle and stop § 87(2)(b). PO Martinez's primary concern was that § 87(2)(b) hands were concealed and described his arms as tense with his shoulders tucked in and apparently flexed arms. There were no other individuals at the location matching the suspect description. Both officers never saw any bulges or other indications there was a firearm or other object on § 87(2)(b) person. Both officers were presented the Stop, Question, and Frisk report prepared by PO Harris and could not explain the contents of the report as it was not their own and they did not assist in its completion. PO Martinez and PO Donovan did not recall any frisks of § 87(2)(b) but both assumed that officers did due to basis of police interaction.

For a stop of an individual to be justified, an officer must have reasonable suspicion that the individual is committing, has committed, or is about to commit a crime People v. Debour, 40 N.Y.2d 210 (1976) (BR 49). Similarly, a frisk of an individual must be based on a reasonable suspicion that a particular person has committed, is committing or is about to commit a crime and that the officer is in danger by virtue that the individual is armed.

In a separate incident, a plainclothes Anti-Crime officer on patrol in the Bronx received information from a reliable confidential informant via his command's Field Intelligence Officer (FIO) that a suspect carried a firearm at a particular location (BR 50). The FIO provided gender, race, and the specific description of a tattoo on his neck. An officer in the field may presume the reliability of information received from a fellow officer. However, as the Anti-Crime officer had no knowledge of the basis of that information and was only provided a general description of a suspect, this established only a founded suspicion of criminality and the description of the suspect was by itself too general to satisfy police action for an arrest or forcible stop. When the officer initially arrived at the location provided by the FIO, he observed a suspect that matched the gender and race also provided by the informant via the FIO. However, reasonable suspicion to stop him was only established once that suspect began making suspicious movements and the officer observed an L-shaped bulge in his waistband, as well as later noticing the neck tattoo People v. Bower, 2017 N.Y. Misc. LEXIS 331(2017). When an individual goes for a walk or engages in other innocuous behavior even in a setting described as a "high crime area," it does not expand the powers of the police to forcibly stop and detain that individual People v. Cornelius, 113 A.D.3d 666 (1986) (BR 51).

Officers were inconsistent about the specificity of the physical and clothing descriptions of the suspect provided by Sgt. Boylan. It was only undisputed that a location, gender, and race were provided, and Sgt. Boylan stated he only provided a "loose description" to the Anti-Crime team. The most contemporaneous record of any clothing description is within PO Harris' memo book, which does not match § 87(2)(b) outfit during the incident. Due to the contemporaneous nature of that record, the investigation credits this document over PO Harris' statement and clothing information he provided in the Stop, Question, and Frisk report, which was only added after supervisory instructions a week after the incident according to supervisory edits. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

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§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation C – Abuse of Authority: At Wyatt Street and Devoe Avenue in the Bronx, Police Officer Miguel Donovan searched § 87(2)(b)

Footage from § 87(2)(b) surveillance camera addresses this allegation (BR 02). There is no on-screen timestamp, and the investigation notes that the video quality is compromised by the actual footage being captured via two cellphone recordings. At 0:00, § 87(2)(b) exits the grocery and walks away from the camera to a corner. At 0:33, Sgt. Adeniyi, PO Harris, PO Martinez, and PO Donovan exit their unmarked vehicle and approach § 87(2)(b). At 0:38, Sgt. Adeniyi appears to grab § 87(2)(b) lower right arm and then his lower left and positions himself behind § 87(2)(b) before grabbing either side of his waist while PO Harris stands in front of § 87(2)(b) and appears to grab both his lower arms and attempt to pull them up out and away from his pockets. At 0:42, § 87(2)(b) arms appear to be out of his pockets. Officers lean § 87(2)(b) against the hood of a parked vehicle. Sgt. Adeniyi appears to maintain his grasp around § 87(2)(b) waist and torso as PO Martinez and PO Donovan move in as officers proceed to arrest § 87(2)(b) as they move from the parked vehicle to the ground. All officers appear to place their hands on his torso in some manner.

Footage from Sgt. Adeniyi's BWC also captures the time at which this allegation was made (BR 07). The durational timestamp will be referenced. At 0:20, Sgt. Adeniyi exits the vehicle at Wyatt Street and Devoe Avenue. He approaches § 87(2)(b) as does PO Harris who walks slightly in front and to the right of Sgt. Adeniyi. At 0:26, Sgt. Adeniyi's camera becomes obscured as he grabs § 87(2)(b) from behind. At 0:31, PO Harris appears to be grabbing § 87(2)(b) from in front of him as PO Martinez and PO Donovan move in as well. Multiple officers continue to interact with § 87(2)(b) as the camera is shaky and does not fully capture if or how officers interact with § 87(2)(b) pockets. No other BWC provides a clearer angle of this interaction (BR 03-06, 08-20).

§ 87(2)(b) alleged that as officers initially placed him against the parked vehicle, PO Donovan reached into one of his pants pockets after frisking them and removed a cellphone.

PO Donovan did not recall reaching into any of § 87(2)(b) pockets, and no other officer recalled any such searches before he was handcuffed.

Stop, Question and Frisk Report, # § 87(2)(b) confirms a frisk took place and only indicates that a search incident to a lawful arrest was conducted.

§ 87(2)(g)

Allegation D – Force: At Wyatt Street and Devoe Avenue in the Bronx, Lieutenant Anderson Ortiz used physical force against § 87(2)(b)

Footage from § 87(2)(b) surveillance camera addresses this allegation (BR 02). There is no on-screen timestamp, and the investigation notes that the video quality is compromised by the actual footage being captured via two cellphone recordings. At 0:48, as the four Anti-Crime officers hold § 87(2)(b) on the hood of the parked vehicle, Lt. Ortiz enters the frame from the right side and runs toward the parked vehicle. He jumps on the hood, near where § 87(2)(b) head apparently is, and hunches over the hood of the vehicle. He and other officers appear to physically struggle with § 87(2)(b) until 1:01, when § 87(2)(b) apparently moves to the ground. Any specific physical actions taken by Lt. Ortiz or other officers during this time are not depicted due to the video quality.

Lt. Ortiz's BWC also addresses this allegation (BR 03). The durational timestamp will be referenced. At 4:00, Lt. Ortiz runs down Wyatt Street toward Devoe Avenue where officers are

already struggling with § 87(2)(b). At 4:05, he jumps on the hood of the vehicle. He and other officers appear to physically struggle with § 87(2)(b) in some manner but due to shaky camerawork and the proximity of the camera to other individuals, no specific physical actions by Lt. Ortiz or other officers are depicted. At 4:13, § 87(2)(b) moves to ground.

Sgt. Adeniyi's BWC provides an alternative angle of Lt. Ortiz's introduction to the incident (BR 07). At 0:38, as Sgt. Adeniyi and the Anti-Crime team interact with § 87(2)(b) on the hood of the parked vehicle, Lt. Ortiz jumps onto the hood of the vehicle from the left side of the frame. His hands are briefly depicted as he jumps, but Lt. Ortiz and § 87(2)(b) are then obscured due to shaky camerawork and the proximity of the camera to other individuals.

PO Moses's BWC proves an alternative angle of these events (BR 10). The durational timestamp will be referenced. At 0:18, he arrives on scene and runs over to the Anti-Crime team and § 87(2)(b) at the hood of the parked vehicle. Lt. Ortiz also arrives. At 0:24, officers including the Anti-Crime team and Lt. Ortiz all appear to be grabbing § 87(2)(b) upper body in various locations. Hands are grabbing his arms, torso, and head. No punches are depicted. Officers appear to move him to ground at 0:29. No other BWC provides a clearer angle of this interaction (BR 04-06, 08-09, 11-20).

§ 87(2)(b) stated that as the Anti-Crime team held, frisked, and searched him on the hood of the parked vehicle, he writhed his torso to free himself. Additional officers including Lt. Ortiz arrived on scene. Lt. Ortiz jumped on the hood of the vehicle and punched § 87(2)(b) three or four times on the right side of his head near his cheekbone and temple with his left hand. § 87(2)(b) stopped struggling and officers took him to the ground. § 87(2)(b) provided photographs of alleged swelling and bruising to the right side of his face, taken on October 10, 2019 (BR 46). These photographs presented no visible injury.

Lt. Ortiz stated that when he ran over to assist the Anti-Crime team, he jumped on the hood of the parked vehicle so that he could be on the opposite side of § 87(2)(b) from other officers. He grabbed at least one of § 87(2)(b) arms to assist with the arrest. This was the only physical interaction he had with § 87(2)(b) until he was taken to the ground. He did not recall punching § 87(2)(b). When presented the above-referenced footage, Lt. Ortiz identified no punches by officers.

PO Donovan did not recall Lt. Ortiz's involvement or any punches by officers at this point in the incident. He only confirmed that he himself punched § 87(2)(b) in his torso during the physical struggle on the ground and denied ever punching § 87(2)(b) in his face or head, as detailed in his memo book (BR 38) and the Threat, Resistance, or Injury Report (TRI) he prepared for this incident, #§ 87(2)(b) (BR 39).

No officer recalled any punches by Lt. Ortiz, including PO Ramirez and PO Moses who arrived while § 87(2)(b) was still on the hood of the parked vehicle (BR 40-41).

The only officer who recalled any punches was PO Donovan, however these punches were by himself at a different point in the incident than as alleged by § 87(2)(b). The available video evidence is unable to corroborate or contradict § 87(2)(b) allegation that Lt. Ortiz punched him due to compromised video quality and camera obstructions. The photographic evidence that § 87(2)(b) provided is inconclusive to the investigation as to whether any injuries were present on the right side of § 87(2)(b) face following the incident.

§ 87(2)(g)

Allegation E – Force: At Wyatt Street and Devoe Avenue in the Bronx, Police Officer Miguel Donovan used physical force against § 87(2)(b)

Allegation F – Force: At Wyatt Street and Devoe Avenue in the Bronx, At Wyatt Street and Devoe Avenue in the Bronx, Police Officer Sandra Martinez used physical force against § 87(2)(b)

Allegation G – Force: At Wyatt Street and Devoe Avenue in the Bronx, Police Officer Saquoi Harris used physical force against § 87(2)(b)

Footage from § 87(2)(b) surveillance camera addresses these allegations (BR 02). There is no durational timestamp, and the investigation notes that the video quality is compromised by the actual footage being captured via two cellphone recordings. At 0:50, the four Anti-Crime officers are joined by Lt. Ortiz, PO Ramirez, and PO Moses when § 87(2)(b) apparently moves to the ground. Any specific physical actions taken by officers during this time are not depicted due to the video quality.

Lt. Ortiz's BWC also addresses these allegations (BR 03). The durational timestamp will be referenced. At 4:00, Lt. Ortiz runs down Wyatt Street toward Devoe Avenue where the Anti-Crime officers are already struggling with § 87(2)(b). At 4:05, he jumps on the hood of the vehicle. Multiple officers order § 87(2)(b) to "stop reaching." Lt. Ortiz and other officers appear to interact with § 87(2)(b) upper body in some manner but due to shaky camerawork and the proximity of the camera to other individuals, no specific physical actions by officers are depicted. At 4:10, an officer tells § 87(2)(b) to turn around. § 87(2)(b) is heard questioning officers' actions throughout the footage. At 4:13, § 87(2)(b) moves to ground from the hood of the vehicle.

Sgt. Adeniyi's BWC provides an alternative angle of these allegations (BR 07). The durational timestamp will be referenced. At 0:38, as Sgt. Adeniyi and the Anti-Crime team interact with § 87(2)(b) on the hood of the parked vehicle, Lt. Ortiz, PO Ramirez, and PO Moses also join. Sgt. Adeniyi stands behind PO Donovan and other officers but their actions with § 87(2)(b) are obscured due to shaky camerawork and the proximity of the camera to other individuals. At 0:45, § 87(2)(b) slides off the hood of the vehicle onto the ground.

PO Moses's BWC proves an alternative angle of these events (BR 10). The durational timestamp will be referenced. At 0:18, he arrives on scene and runs over to the Anti-Crime team and § 87(2)(b) at the hood of the parked vehicle. Lt. Ortiz also arrives. At 0:24, officers including the Anti-Crime team and Lt. Ortiz all appear to be grabbing § 87(2)(b) upper body in various locations. Hands are grabbing his arms, torso, and head. Officers appear to move him to ground at 0:29. No other BWC provides a clearer angle of this interaction (BR 04-06, 08-09, 11-20).

§ 87(2)(b) stated that, after Lt. Ortiz punched him in the face, he stopped resisting by moving his torso in Sgt. Adeniyi's and PO Donovan's grips. Sgt. Adeniyi and PO Donovan use their grips on § 87(2)(b) arms to pull him onto the front of his body onto the ground. § 87(2)(b) turned his head so that the left side of his face was on the ground. Sgt. Adeniyi and PO Donovan, in bringing § 87(2)(b) to the ground, pulled his hands out of his pockets and extended them in front of § 87(2)(b) head on the ground. He alleged that, due to being taken down to the ground, he suffered abrasions to his right shoulder, knees, and elbows.

PO Donovan stated that when approaching § 87(2)(b) he and other officers ordered § 87(2)(b) multiple times to take his hands out of his pockets. § 87(2)(b) turned to officers and took a step back and away from them and did nothing else, indicating to PO Donovan he was not compliant. PO Donovan grabbed at least one of § 87(2)(b) arms to remove it from his pocket. He did not recall what other officers did at this point. PO Donovan tried to pull § 87(2)(b) arm up and away from his pocket and felt § 87(2)(b) tense his arms and force them to remain down. At least one other officer also physically struggled with § 87(2)(b) as they all

interacted next to a parked vehicle, with § 87(2)(b) back against the vehicle. PO Donovan, § 87(2)(b) and at least one other officer he did not recall ended up on the ground. PO Donovan did not recall how this happened and if it was a forcible takedown or just incidental to general struggle. However, PO Donovan believed he intentionally pulled § 87(2)(b) to the ground by his arm(s) or upper body to provide himself more leverage to control § 87(2)(b) due to safety concerns around potential firearm. PO Donovan was presented his own TRI report, #§ 87(2)(b) and stated he must have used a forcible and intentional takedown since it was indicated in the TRI.

PO Martinez stated as she and other officers approached § 87(2)(b) she identified herself as a police officer and all officers told § 87(2)(b) repeatedly to remove his hands his pockets. § 87(2)(b) became more tense, his shoulders closing in more in front of his body. PO Martinez and at least one other officer grabbed § 87(2)(b) arms once they were face-to-face. She attempted to lift one arm from his waistband area from where he was concealing his hands to see his hands. She only recalled trying to remove his hands. She could not describe how other officers interacted with § 87(2)(b) and did not recall the specific physical steps taken with § 87(2)(b). § 87(2)(b) tensed his body further and forced his arms to remain concealed by his waistband. When § 87(2)(b) resisted, PO Martinez intended to arrest him, and she and other officers handcuffed him. She did not recall how § 87(2)(b) was placed in handcuffs or him being on the ground at all. PO Martinez was presented her own TRI report, #§ 87(2)(b) and could not explain why it was indicated she used a forcible takedown, but she assumed she at least assisted in such a takedown and had no independent recollection of such police action (BR 42).

PO Harris recalled that other officers he did not recall initiated physical contact with § 87(2)(b) as he approached and generally recalled § 87(2)(b) resisting officers' orders and actions by refusing to remove his hands from his pockets. He described § 87(2)(b) as generally irate and had no specific recollection of that demeanor. PO Harris was presented his own TRI report, #§ 87(2)(b) and did not recall preparing it and stated he did not recall any forcible takedown he performed against § 87(2)(b) as indicated in the report (BR 43). He confirmed he prepared the report.

In all three above-referenced TRI reports, it was noted that § 87(2)(b) was injured and refused medical attention. Photographs attached to these reports show abrasions to § 87(2)(b) right leg and right shoulder (BR 47-48).

Sgt. Adeniyi stated that when he and his team approached § 87(2)(b) at least two officers he did not recall, possibly himself, grabbed § 87(2)(b). He could not estimate how many other officers were on scene at this point other than "numerous." He did not recall how officers grabbed § 87(2)(b). Officers leaned § 87(2)(b) forward on the hood of the parked vehicle and proceeded to handcuff him. Sgt. Adeniyi did not recall how officers did this and if § 87(2)(b) was cuffed while on the vehicle or in different position. Sgt. Adeniyi did not recall any physical interaction he had with § 87(2)(b). He recalled no specific officers that physically interacted with him. Sgt. Adeniyi only recalled that § 87(2)(b) generally resisted when officers grabbed him due to a general struggle to place his hands behind his back. Sgt. Adeniyi was unable to provide details about this. He did not recall if § 87(2)(b) was placed on the ground. Sgt. Adeniyi stated that § 87(2)(b) was arrested because he resisted and that, when arrested, there was still an ongoing investigation into whether § 87(2)(b) was armed with a firearm. When presented the above-referenced footage from his own BWC, Sgt. Adeniyi stated it looked like § 87(2)(b) was forcefully placed on the ground by numerous officers he could not recall or identify.

Lt. Ortiz stated that when he initially jumped on the vehicle to assist the Anti-Crime team, he believed it was to arrest § 87(2)(b) based on the general physical struggle and apparent attempts to control his arms. He grabbed at least one of his arms to control it. Lt. Ortiz recalled general active resistance by § 87(2)(b) because officers struggled to control his arms and handcuff him. § 87(2)(b) ended up on the ground on his stomach. Lt. Ortiz did not perform a

forcible takedown himself and did not know if other officers intentionally took him down or if it was incidental to the general struggle.

PO Ramirez and PO Moses had no recollection of this incident and could not speak to officers' physical actions with § 87(2)(b).

An officer's reasonable use of force to gain control of a subject is dictated by multiple factors including: the nature of the circumstances, actions taken by the subject, duration of the action, immediacy of the perceived threat, active resistance by the subject, potential evasion of arrest, number of subjects and their size/age/condition, any known violent history, the presence of a hostile crowd, and any apparent substance use NYPD Patrol Guide Procedure 221-01 (BR 44).

Though § 87(2)(b) only alleged this takedown against Sgt. Adeniyi and PO Donovan, only PO Donovan, PO Martinez, and PO Harris prepared TRI paperwork regarding a forcible takedown which is consistent with the video evidence. § 87(2)(b) as supported by officers and the video evidence, described himself as moving his body around to resist officers' grasps. The subject officers were dealing with a resistant subject they suspected of carrying a firearm to secure his arms and handcuff him, and had apparent difficulty doing so from a standing position.

§ 87(2)(g)

Allegation H – Force: At Wyatt Street and Devoe Avenue in the Bronx, officers used physical force against § 87(2)(b)

Footage from Lt. Ortiz's BWC depicts the clearest angle of § 87(2)(b) restraint on the ground (BR 03). The durational timestamp will be referenced. At 4:13, § 87(2)(b) goes to ground and the Anti-Crime, with Lt. Ortiz, PO Ramirez, and PO Moses also move to ground to handcuff him. At 4:20, at least two officers' hands are shown holding § 87(2)(b) left leg while other officers hold his arms and torso. No actions by officers' feet nor § 87(2)(b) groin area are depicted. The camera becomes shaky as Lt. Ortiz moves toward § 87(2)(b) upper body next to PO Moses as he appears to assist other officers in placing § 87(2)(b) arms behind his back and handcuff them. Lt. Ortiz's camera remains shaky but continuously depicts § 87(2)(b) head until 4:41. No stomping, stepping, or striking by officers is depicted. At 4:43, Lt. Ortiz's BWC appears to show § 87(2)(b) back and arms. Officers are only depicted holding his upper body. At 5:03, it appears that § 87(2)(b) is successfully handcuffed.

Footage from Sgt. Adeniyi's BWC provides an alternative angle of § 87(2)(b) handcuffing (BR 07). The durational timestamp will be referenced. At 0:45, § 87(2)(b) moves to ground. PO Martinez, PO Donovan, PO Harris, PO Ramirez, and PO Moses move to ground as Sgt. Adeniyi moves toward PO Donovan at 1:02. Officers only appear to be grabbing or trying to grab § 87(2)(b) upper body. No stomping, stepping, or striking by officers is depicted. Sgt. Adeniyi's BWC remains facing PO Donovan and is largely shaky and obstructed and briefly shows officers holding § 87(2)(b) holding his back and arms until 1:35 when it appears that § 87(2)(b) is handcuffed.

Footage from PO Ramirez's BWC depicts his actions against § 87(2)(b) during the handcuffing (BR 08). The durational timestamp will be referenced. From 0:35 to 1:25, PO Moses' BWC is but shows PO Ramirez holding § 87(2)(b) left leg throughout the arrest. No stomping, stepping, or striking by officers is depicted.

Footage from PO Moses' BWC depicts his actions against § 87(2)(b) during the handcuffing (BR 10). The durational timestamp will be referenced. From 0:30 to 1:00, PO Moses assists with handcuffing § 87(2)(b) on the ground by holding his left lower arm. At 0:47, an unidentified plainclothes officers' right foot potentially on top of § 87(2)(b) hand but due to the angle and the shakiness of the BWC, it is not clear. At 0:55, the BWC becomes fully obstructed. No clear stomping, stepping, or striking by officers is depicted.

Footage from Sgt. Fields' BWC depicts his own actions during the handcuffing (BR 11). The durational timestamp will be referenced. At 0:25, Sgt. Fields approaches the Anti-Crime team,

Lt. Ortiz, PO Ramirez, and PO Moses who are all restraining § 87(2)(b) on the ground. He moves past officers and holds § 87(2)(b) left leg at 0:33. At 0:37 he appears to let go and moves his hands toward § 87(2)(b) back where officers are attempting to handcuff him. The BWC is largely obstructed and dark so no clear actions depicted. At 0:53, it appears that the handcuffing is complete. No stomping, stepping, or striking by officers is depicted.

No other available footage depicts this alleged force.

§ 87(2)(b) stated multiple officers held him on the ground after he was moved off the parked vehicle. His arms were out in front of his head and he still held his loose change in his hands. He saw a foot belonging to a uniformed officer step on his left wrist. § 87(2)(b) felt a sensation on his leg that he believed to be an officer stepping on him. He then felt a sensation in his testicles that he believed to be an officer punching or kicking him there twice. § 87(2)(b) was still tensing his body and moving his torso slightly but when struck in the testicles, he stopped moving and opened his hand, causing his change to spread on the ground. Officers placed § 87(2)(b) hands behind his back, secured handcuffs, and then lifted him to his feet.

PO Donovan was on § 87(2)(b) right side on the ground while § 87(2)(b) was on his stomach. He tried grabbing his arms to pull them away from the front of his person to arrest him. PO Donovan attempted to pull out § 87(2)(b) right arm from under his body for about 30 seconds with no success as § 87(2)(b) tensed his arm and forced it to remain where it was. PO Donovan assumed other Anti-Crime Team members were assisting but did not recall any other officers' specific actions. After 30 seconds of struggling, PO Donovan decided to escalate the force he was using to ensure successful compliance. He used his right hand to punch § 87(2)(b) two or three times consecutively on the right side of his upper body, in his torso and/or arm. PO Donovan then pulled § 87(2)(b) right arm up and out from under his body and behind his back and he and at least one other officer secured handcuffs on § 87(2)(b) arms. He did not know how his left hand got behind his back. He did not recall if other officers punched § 87(2)(b) at any point, or if any officer stepped on him or used any foot strikes against him. He did not recall any officer touching his groin area. Either during § 87(2)(b) cuffing or directly after, uniformed officers arrived on scene and PO Donovan did not recall who or how many or how they were involved. When presented the above-referenced footage from Lt. Ortiz's, Sgt. Adeniyi's, and PO Moses' BWC, his testimony was unchanged regarding this allegation and saw no such alleged actions in the footage.

Lt. Ortiz stated that once § 87(2)(b) was moved to ground, he did not recall any other actions by officers other than grabbing some part of § 87(2)(b) body and holding his arms to place them behind his back. Lt. Ortiz did not recall any officer punch kick, or otherwise strike § 87(2)(b) groin or testicles. He did not see any officers step on § 87(2)(b). When presented the above-referenced footage from his own, Sgt. Adeniyi's, and PO Moses' BWC, his testimony was unchanged regarding this allegation and saw no such alleged actions in the footage.

Sgt. Adeniyi, PO Martinez, and PO Harris did not recall how officers handcuffed § 87(2)(b). They did not recall if § 87(2)(b) was placed on the ground. They did not recall any officer punch, kick, or otherwise strike § 87(2)(b) groin or testicles. They did not recall any officers step or stomp on § 87(2)(b). PO Harris definitively denied any such action by himself. They did not recall any specific uniformed officers involved in the handcuffing. When presented various portions of the above-referenced footage, all three officers' testimony was unchanged regarding this allegation and saw no such alleged actions in the footage.

Sgt. Fields stated he had no independent recollection of this incident and provided testimony based on an earlier review of his BWC, which shows him arriving on scene while § 87(2)(b) was on the ground. Other officers were already trying to arrest § 87(2)(b) on the ground and Sgt. Fields could not speak to any specific actions these officers took with § 87(2)(b) from his BWC footage. He did not recall any officer punch, kick, or step on § 87(2)(b). When presented the above-referenced footage from his own and Lt. Ortiz's BWC, his testimony was unchanged regarding this allegation and saw no such alleged actions in the footage.

PO Ramirez and PO Moses had no recollection of this incident and could not speak to officers' physical actions with § 87(2)(b). Both officers wore uniforms on the incident date. When presented the above-referenced footage from their own BWC footage, neither officer's testimony was changed regarding this allegation and they saw no such alleged actions in the footage.

§ 87(2)(b) only alleged being stepped on by a "uniformed officer." None of the available footage suggests any of the three uniformed officers present for § 87(2)(b) arrest (PO Ramirez, PO Moses, and Sgt. Fields) stepped on him and footage potentially depicting a plainclothes officer stepping on his left hand is inconclusive. Without any clarity provided by video evidence or officer testimony regarding the alleged subject of that force, the investigation is unable to determine which of the three uniformed officers on scene at that time is subject of this allegation. Additionally, § 87(2)(b) was unable to provide any description for the officer who allegedly struck him in the testicles and the above-referenced footage shows no action consistent with that action. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation I – Abuse of Authority: At Wyatt Street and Devoe Avenue in the Bronx, officers refused to provide their shield numbers to § 87(2)(b)

Footage from Sgt. Adeniyi's BWC captures this allegation (BR 07). The durational timestamp will be referenced. At 0:51, § 87(2)(b) asks four times for officers' badge numbers as he is handcuffed on the ground. At 1:32, as officers still restrain § 87(2)(b) on the ground, § 87(2)(b) states he is going to get everyone's badge numbers. At no point does any officer provide any badge numbers to § 87(2)(b). No other video evidence captures additional requests for badge numbers by § 87(2)(b) including as he is placed in a police vehicle as captured in PO Harris' BWC (BR 19).

§ 87(2)(b) stated he asked for officers' badge numbers as he was initially grabbed on the hood of the parked vehicle and again next to a marked vehicle before he was placed inside for transport.

When a member of the public requests the shield number of a uniformed member of service, they are required to provide that information unless there are exigent circumstances (BR 45). Exigent circumstances are defined as circumstances in which there is imminent danger of physical injury or other factors that make providing the shield number impractical NYPD Patrol Guide Procedure 203-09.

In the above-referenced footage, officers are engaged in a tense and stressful physical encounter with § 87(2)(b) as they struggle to handcuff him. During that cuffing is the only time that the available video evidence depicts any requests for shield numbers, despite § 87(2)(b) alleging he also asked after he was handcuffed. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation J – Discourtesy: At Wyatt Street and Devoe Avenue in the Bronx, an officer spoke discourteously to § 87(2)(b)

Footage from Lt. Ortiz's BWC depicts this allegation (BR 03). The durational timestamp will be referenced. At 4:58, § 87(2)(b) states he is going to get the officers' badge numbers. A male voice close to the camera states, "Shut the fuck up." This statement is also captured close to Sgt. Adeniyi's BWC at 1:33 in that footage (BR 07). This statement is also captured close to Sgt. Fields' BWC at 0:48 in that footage (BR 11). This statement is captured in additional footage from PO Ramirez's BWC at 1:23 (BR 08) and PO Donovan's BWC at 1:27 (BR 09).

§ 87(2)(b) did not raise this allegation.

No officer recalled any officer state to § 87(2)(b) during the incident, “Shut the fuck up.” When presented the above-referenced footage, no officer recognized the officer whose voice it was.

As § 87(2)(b) did not raise this allegation during his testimony, he did not provide any description or information of the subject officer. The available video evidence only provides the apparent gender of the officer, which only eliminates PO Martinez as a potential subject officer. Though the discourteous statement is captured clearly and loudly on footage from Lt. Ortiz’s, Sgt. Adeniyi’s, and Sgt. Fields’ BWC, none of the available footage provides definitive evidence regarding the subject of this allegation and officer testimony was unable to provide any further identifying information.” § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation K – Discourtesy: En route to the 48th Precinct stationhouse, Police Officer Jakub Zadlo spoke discourteously to § 87(2)(b)

Footage from PO Zadlo’s BWC captures this allegation (BR 18). The durational timestamp will be referenced. At 1:50, PO Zadlo rides in the front passenger seat of a police vehicle that transports § 87(2)(b) to the 48th Precinct stationhouse. At 1:52, § 87(2)(b) tells PO Zadlo, “Nigger, I’m highly upset.” PO Zadlo responds, “First of all, don’t call me that, I’m an officer, you understand? Have a little fucking respect.”

§ 87(2)(b) did not raise this allegation.

PO Zadlo did not recall telling § 87(2)(b) to, “Have a little fucking respect” (BR 52). When presented the above-referenced footage, PO Zadlo heard himself make that statement and described § 87(2)(b) as loud and escalating the situation. PO Zadlo explained he used profanity to deescalate the situation and § 87(2)(b) demeanor because he wanted § 87(2)(b) to calm down.

Officers are committed to treating every citizen with compassion, courtesy, professionalism, and respect NYPD Patrol Guide Procedure 200-02 (BR 53).

Despite § 87(2)(b) agitated demeanor during his transport from the scene of his arrest, neither the video evidence nor PO Zadlo presented any safety concerns or stressful factors for PO Zadlo at the time he used profanity. § 87(2)(b) was handcuffed and secured in the back of a police vehicle § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegations Not Pleaded

§ 87(2)(b) alleged that his clothing was damaged during the incident and provided photographs of that damage (BR 46). As he did not allege this to be intentional, and any damage was deemed incidental to the general physical struggle taken to handcuff § 87(2)(b) it has not been pleaded.

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR 54).
- Sgt. Adeniyi has been a member-of-service for 17 years and has been a subject in nine other CCRB complaints and 17 other allegations, of which two were substantiated (see officer history):
 - 201904944 involved substantiated allegations of physical force and a stop against Sgt. Adeniyi. The Board recommended Charges and the NYPD reached a plea agreement.

○ § 87(2)(g)

- PO Zadlo has been a member-of-service for five and this is the first CCRB complaint to which he has been a subject (see officer history).

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming physical injury, emotional shock and harm, and a deprivation of his civil rights and liberty through false arrest and imprisonment and excessive force and seeking \$10,000,000 as redress (BR 55-56). § 87(2)(a)

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 11

Investigator: Benjamin Shelton Inv. Benjamin Shelton 9/29/21
Signature Print Title & Name Date

Squad Leader: Edwin Pena IM Edwin Pena 09/29/21
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date